

Evaluation of the NSW Youth Drug Court Pilot Program: First Implementation Review

Author:

Flick, Mardi; Eardley, Tony

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**EVALUATION OF THE NSW
YOUTH DRUG COURT PILOT
PROGRAM**
FIRST IMPLEMENTATION
REVIEW

MARDI FLICK AND
TONY EARDLEY

SPRC Report 5/01

Social Policy Research Centre
UNSW Evaluation Consortium
June 2001

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Contact: Publications, SPRC, University of New South Wales, Sydney, NSW, 2052, Australia.
Telephone: +61 (2) 9385 7800 Fax: +61 (2) 9385 7838 Email: sprc@unsw.edu.au

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The views expressed in this publication do not represent any official position on the part of the Social Policy Research Centre. This report was produced to make available the research findings of the individual authors, and to promote the development of ideas and discussions about major areas of concern in the field of social policy.=

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Executive Summary

Background

- The NSW Youth Drug Court (YDC) Pilot Program is an initiative arising from the 1999 Drug Summit. It began operating on 31 July 2000 in two Children's Courts in Western and South Western Sydney. Its aim is to reduce drug use and offending behaviour among young people charged with serious offences, where alcohol or other drug use is a contributory factor.
- At the end of 2000, a University of New South Wales evaluation consortium, led by the Social Policy Research Centre, was commissioned by the NSW Attorney General's Department to evaluate the YDC Pilot Program.
- This report presents the findings of the first Implementation Review, carried out as part of the evaluation. The Review is based on interviews with 25 key stakeholders of the YDC and with five participants, observation of Court hearings and team meetings, and review of policy documents. The aim of the Review is to identify the strengths and weaknesses of the YDC program in its initial phase, from the perspective of the different stakeholders, and to highlight critical success factors and barriers to implementation.

Key Findings

- The Program is operating broadly as planned, but with a lower intake than expected. This seems to be partly due to difficulties in accurately estimating the size and characteristics of the program target group, although there are a number of other contributory factors.
- The program is operating effectively as a pilot, in that problems are being identified, discussed and addressed. The program model, while lacking cohesion in some respects, has also been flexible enough to allow for adaptation and change.
- In spite of the low participant intake, the operational demands on the staff and agencies involved have been high. This has been partly because operational details and interagency roles and responsibilities were not fully established before the Court started, and partly because participants' levels of drug use and social needs have been more complex and demanding than anticipated in the planning process.
- These difficulties have been exacerbated by a shortage of accommodation and residential treatment services for participants and potential participants, at all stages from detoxification onwards.
- There were initial problems with access to Court premises and with Court procedures, causing administrative delays. These now seem largely to have been resolved or are in the process of resolution.
- Implementation of the program has highlighted some limitations in the availability of services in the Western and South Western Sydney area for young offenders in the YDC target group, especially appropriate programs and resources for young

female offenders, and of suitable educational programs for marginalised young people in general.

- There has been a lack of clarity in the management process for the program and in the roles and responsibilities of the departmental and agency staff involved. This has reduced the ability of services to meet participants' needs effectively in the first period of the pilot.
- In spite of these difficulties, there is a strong commitment across the departments and amongst operational staff to making the program work, and procedures are in train amongst both the Court Team and the Joint Assessment and Referral Team (JART) to resolve problems of coordination and responsibility.
- Although only a small number of participants were interviewed for the study, their views on the program were on the whole positive.

Issues to be Resolved

- The shortage of appropriate adolescent-specific accommodation services would need to be resolved before any possible extension of the program.
- There were differing views as to whether the program should be based on abstinence or a harm minimisation model in terms of continued drug use. This has implications both for access to short-term accommodation and for an effective regime of urinalysis and sanctions for breaches of program requirements.
- Stakeholders also expressed a need for clearer principles and practices on sanctions for non-compliance generally.
- Although program take-up is increasing, the low numbers so far suggests that the program may be targeted too narrowly. However, the predominant view among stakeholders is that the program should focused on the main target group of repeat offenders with alcohol and other drug (AOD) problems. Any net-widening could potentially create difficulties for the boundaries between the YDC and other diversionary programs.

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Glossary of Abbreviations

AOD	Alcohol and Other Drugs
ATSI	Aboriginal and Torres Strait Islander
DET	Department of Education and Training
DJJ	Department of Juvenile Justice
DoCS	Department of Community Services
IPMG	Interagency Project Management Group
JART	Joint Assessment and Review Team, including representatives from the Departments of Juvenile Justice, Health, Community Services, and Education and Training
JJO	Juvenile Justice Officer
SPRC	Social Policy Research Centre
SWSAHS	South Western Sydney Area Health Service
SWSI	South Western Sydney Institute of TAFE
YDC	Youth Drug Court
YSAAP	Youth Supported Accommodation Assistance Program

1 Introduction

1.1 Background

One of the recommendations of the NSW Drug Summit, which took place in May 1999, was a trial of a Youth Drug Court. Recommendation 6.11 of the Drug Summit proposed that “the current Drug Court trial be expanded to be available at other venues in NSW and the Children’s Court be given comparable diversionary powers to the Drug Court” (NSW Government, 1999). The Government’s response to the recommendation is attached to this report as Appendix 1. Following the Summit, the YDC was established as a two-year pilot program, commencing in July 2000 under the leadership of the Attorney-General’s Department.

The aim of the YDC program is to reduce, amongst young people, the level of criminal activity and other problematic behaviours associated with the misuse of drugs and alcohol. It combines intensive judicial supervision, case management and drug treatment for young people charged with serious criminal offences. The YDC operates as a mobile court within the Children’s Court jurisdiction, dedicated to YDC matters. The catchment area for the trial is Western and South Western Sydney, with the Court sitting at Campbelltown and Cobham Children’s Courts.

The YDC was originally conceived as similar to the Adult Drug Court currently being trialed in Parramatta, but considerable efforts were made to make the YDC more relevant to the needs of young people while still operating within a clear judicial framework. The YDC constitutes an additional program in the existing suite of diversionary measures aimed at reducing rates of incarceration amongst young people. These include schemes such as cautions and youth justice conferencing, established under the *Young Offenders Act 1997*.

1.2 The YDC Program Model

The YDC model was described in a Program Plan which was constantly revised until July 2000 (AGD, 2000). Figure 1, below, based on the model described in the Program Plan and revised to include subsequent changes, describes the key elements in the YDC process.

Figure 1: Youth Drug Court Program - Court Processes Pathway

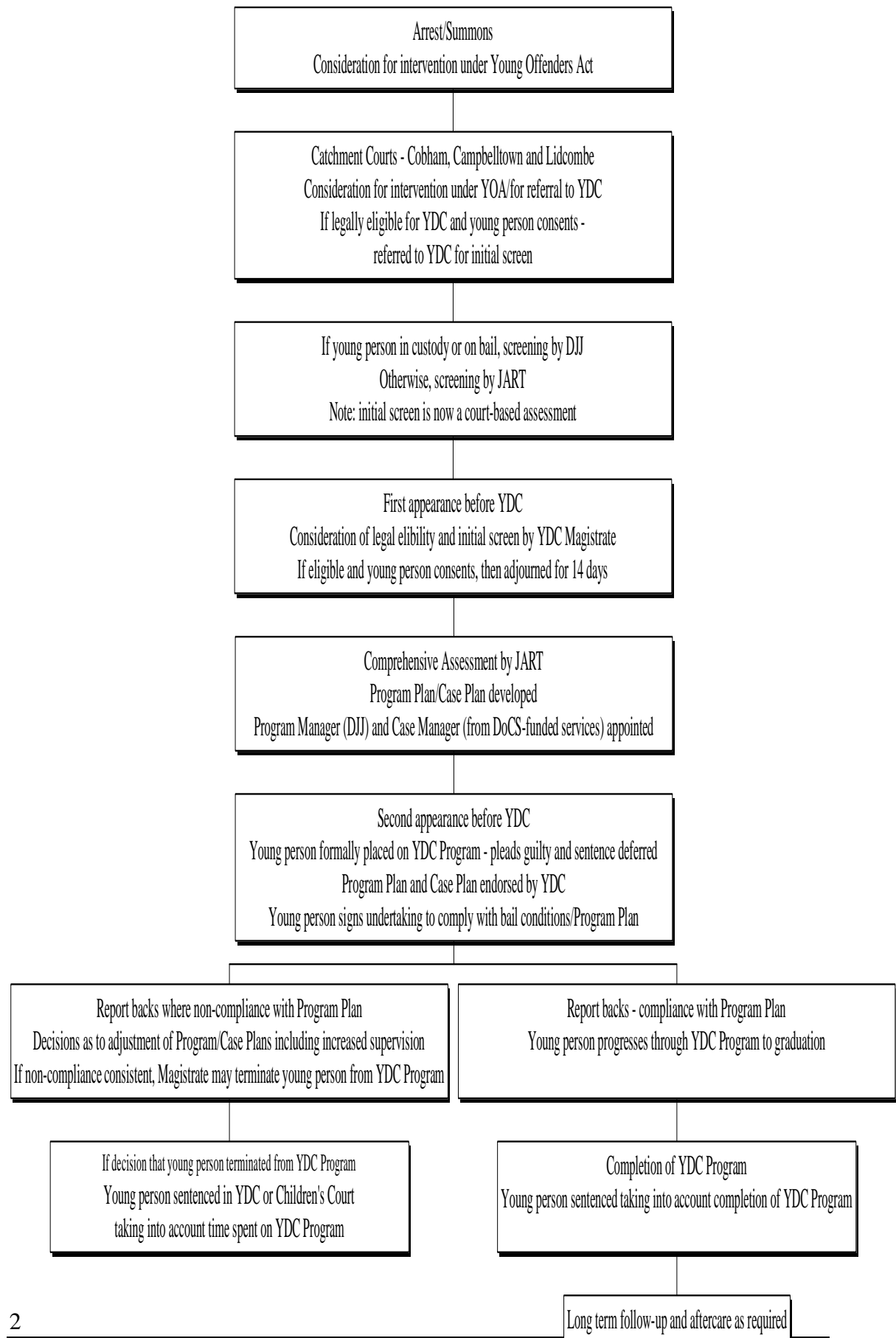


Table 1: Departmental Services and Responsibilities in the YDC Program

Attorney General's Department	Magistrates Registrar/Coordinator Evaluation
Department of Community Services	DoCS JART member Case work services and brokerage funds: <ul style="list-style-type: none"> • Indigenous Social Justice Association • The Junction Works • Marist Community Services Access to accommodation
Department of Education and Training	DET JART member YDC education program
NSW Health	Health JART member Stabilisation Unit Access to detoxification and residential rehabilitation services Outpatient Services (Health Day Programs): <ul style="list-style-type: none"> • Open Family • Tharawal Aboriginal Corporation • South Western Sydney Area Health Service • Western Area Adolescent Team • Ted Noffs Foundation
Department of Juvenile Justice	JART Manager Juvenile Justice Officers (2) Juvenile Justice Alcohol and Other Drugs Counsellors (3) Community Nurse (soon to be appointed) Access to Intensive Program Unit services
NSW Legal Aid Commission	YDC Defence Solicitor
NSW Police	YDC Prosecutor

Table 1 above lists the NSW government departments and agencies involved in the YDC program and indicates the areas of responsibility and staff/service provision linked to the respective departments.

An Interagency Project Management Group (IPMG) was established in September 1999 to manage the planning and implementation of the YDC, with specific subgroups responsible for court processes, treatment services, and the evaluation of the pilot program.

The service delivery model of the YDC also includes an interdepartmental team (known as the Joint Assessment and Referral Team or JART), involving the Departments of Juvenile Justice (DJJ), NSW Health, Department of Community Services (DoCS) and the Department of Education and Training (DET). The model also includes community organisations funded by DoCS and Health.

The YDC began operating on 31 July 2000.

1.3 YDC Program Evaluation

At the end of 2000, the NSW Attorney-General's Department commissioned through a selective tender process a consortium led by the Social Policy Research Centre (SPRC) at the University of New South Wales to conduct the evaluation of the Youth Drug Court Pilot. The evaluation is being overseen by a YDC Monitoring and Evaluation Committee, with representatives from all the agencies involved and from the Cabinet Office.

The evaluation involves a number of separate research studies, as follows:

- Statistical Monitoring Reports (to be produced quarterly by DJJ and annually by the SPRC)
- Implementation Reviews (the second to be produced in December 2001)
- Outcomes Study of Program Participants (November 2001 and November 2002)
- Cost Analysis of the Program (March 2002)
- Review of Legal Issues (December 2001)
- Final Report on YDC Effectiveness (December 2003)

This report provides the results of the first Implementation Review.

1.4 Aims of the Review

The Implementation Review is intended to identify the strengths and weaknesses of the Youth Drug Court program in its initial phase, from the perspective of the different stakeholders involved. The Review also aims to identify critical success factors and barriers to implementation, as well as any discrepancies between the YDC policy model and operational practices. The program is evolving and subject to change during the implementation period, so the Review also seeks to record these changes so that they can be taken into account in the wider evaluation process.

Since the results of this Review may lead to some further changes in the operations of the program, a second review will be conducted in November/December 2001, to examine how the program evolves over the next six months.

1.5 Methodology

The Review is based primarily on interviews with key stakeholders, review of program documentation¹ and observation of the Court in action.

A total of 25 interviews were conducted with YDC stakeholders during the period from late February to mid-April 2001. The SPRC consulted with the YDC Monitoring and Evaluation Committee about the selection of key stakeholders and in developing the topic guide. The stakeholders included members of the Monitoring and Evaluation Committee, the JART, the Court Team, program managers (includes Juvenile Justice Officers and Juvenile Justice AOD Counsellors), representatives of the DoCS-funded services (known as case managers), and treatment providers. Interviews were also carried out with five young people participating in the YDC program.

The stakeholders interviewed were involved at different levels of the YDC planning and operation. The interviews were semi-structured and based on discussion guides that were modified in line with the stakeholder's role in the YDC. SPRC researchers also attended a number of sittings of the Court. The interviews were tape-recorded with the signed consent of the participants. Tapes and transcriptions are kept securely at the SPRC.

1.6 Report Structure

This report is structured around the key elements of the YDC program, based as far as possible on the chronology of participants' intake to and progress through the scheme. It identifies significant divergences from the planned model and implementation issues that may have a significant impact on the long-term operation and effectiveness of the program. In particular it highlights elements that would need to be taken into account if the program were to be extended to other locations. The final section draws together the key implementation issues and discusses implications for other parts of the evaluation.

2 Target Group and Intake

This section of the Review looks at the level of participation in the YDC program in the first nine months of operation and examines how far the characteristics of participants conform to those anticipated in the planning process.

¹ It should be noted that the policy and planning documentation available for the Review was limited and incomplete and it has not always been possible to establish precisely the origin and timing of certain decisions about program structure and operations. There has been turnover in some key Departmental positions and there are some alternative 'narratives' about decisions that were made outside the formal meeting process.

2.1 Target Group

Expected participants

As defined in the Program Plan, the YDC pilot is targeted at young people aged 14 – 18 years (though younger people can be eligible), living in Western and South Western Sydney, charged with a criminal offence (excluding sex offences, traffic offences and serious indictable offences) for which a caution or youth justice conference is considered inappropriate, and who have a demonstrable AOD problem. To be eligible, young people must plead guilty or state an intention to plead guilty, and their offence must be able to be finalised by the Children's Court.

The expectation was that the YDC program would mainly be attractive to young people charged with serious offences and a significant criminal history, who would thus be likely to be facing a control order. This expectation seems to have contributed to a widespread impression that the YDC is *only* for young people facing control orders.

The level of participation required by the YDC program was regarded as more onerous than that (such as community service or probation orders) which could be imposed for minor offences. It was also anticipated that even if eligible for other diversionary schemes, many of the YDC participants would not be able to engage with them because of their high level of AOD use.

Actual participants

In practice, it seems that the participants accepted on to the program so far have had higher levels of substance abuse than anticipated at the planning stage. Heroin is the main drug of choice for the majority of participants, and most are injecting drug users (DJJ 2001, Figure 5). This has prompted a greater than anticipated need for detoxification and rehabilitation services.

A number of stakeholders involved in the policy and planning process commented that while it was always assumed that the main target group for the YDC was to be the 'hard end' of juvenile justice clients, they expected there to be a greater spectrum of needs and were surprised at the level and intensity of drug use and welfare needs among the participants. On the other hand, some of those involved in service delivery felt that this could have been anticipated in the planning process. There was a view that while the kinds of young people coming into contact with the courts in recent years have not changed substantially, their pattern of drug use is noticeably more frequent and of higher intensity. The age of initiation into injecting drug use also seems to be getting lower, as other research suggests (Johnson, 2001).

Some stakeholders commented that it was important for the pilot program to persist with this particular group of young offenders. Their view was that reducing offending behaviour and drug use amongst this group would represent a good measure of the success of an intensive intervention model such as the YDC program.

Priority groups

Within the overall target group for the YDC pilot, certain priority groups were also identified in the Program Plan. These included young women and young people already in custody. It was anticipated that these categories would include a significant number of Aboriginal and Torres Strait Islander young people.

Young women have presented particular problems in this first phase of the program. Young women make up only just over a quarter of the participants to date and for reasons that are not yet clear they seem less likely than young men to progress through from initial referral to acceptance on to the program. A number of stakeholders were surprised at the low number of young women participating in the program, given that they make up a substantial proportion of juvenile offenders as a whole.

On the other hand, JART members reported that the young women who do enter the program present a considerable challenge. By this stage in the juvenile justice system young women are likely on average to have had more involvement in drugs and offending than young men, and often have histories of sexual abuse and other risk behaviour in terms of sexual and reproductive health. Service delivery staff have found young women extremely difficult to engage, and there is a lack of appropriate services and resources, particularly for young Aboriginal and Torres Strait Islander (ATSI) women. Young indigenous women are over-represented in the criminal justice system, and also in the YDC. Five of the seven young women currently engaged in the YDC program identified as Aboriginal and Torres Strait Islander.

Stakeholders reported that the YDC has found it difficult to contain the young female participants within the program. Accommodation and some treatment options are more limited for young women than for young men, and a number of young women have repeatedly absconded from accommodation and residential treatment services. Some have been on the run for several weeks with no contact until their arrest.

These difficulties are not restricted to the YDC. The Adult Drug Court has experienced similar difficulties in relation to the women on its program. However, the wider issue of the focus on young people with the most challenging needs, especially young women, will have to be addressed in any possible expansion of the program in the future. The Department of Juvenile Justice is currently developing an action plan to enhance capacity to address young women's issues on an ongoing basis.

2.2 Intake Numbers

The characteristics of the participants in the YDC program are partly a function of the overall numbers taken on to the program. To date, the intake has been substantially lower than anticipated, for reasons that are discussed below.

The Interagency Project Management Group (IPMG) estimated that about 780 young people would be eligible for the Youth Drug Court during each year of the pilot program (AGD, 2000). This estimate was based on the Department of Juvenile Justice's Children's Court annual statistics for the Western and South Western Sydney catchment area. The level of program intake was to be capped at 120 young people per year so to limit demand for increased service provision. There were expected be

around eight referrals per week from Cobham, Campbelltown and Lidcombe Children's Courts (one referral could come from another Children's Court outside the catchment area if the young person met the eligibility criteria). It was assumed that after the initial screening the Court would refer 2-3 young people each week for comprehensive assessment and JART recommendation to enter the program.

In practice, both referral and intake rates for the YDC have been much lower than planned. By 31 March 2001, after eight months of operation, 58 young people had been referred and only 29 had been accepted onto the program (DJJ, 2001).

2.3 Reasons for Low Program Take-up

What are the reasons for such a large gap between the anticipated demand for the program and the actual intake? There seem to be a number of contributing factors. First, it is inherently difficult to make accurate estimates of the demand for a new program, particularly one with fairly exacting eligibility criteria. It is possible that in the planning process there was an overestimate of the number of young people likely to meet the criteria laid down for the YDC. In relation to this, there were suggestions from magistrates interviewed that fewer young people were appearing before the Children's Court generally, thus potentially decreasing the pool of young people meeting the YDC eligibility criteria. This is supported by other data cited by stakeholders in relation to the Children's Court as a whole, but it is not clear whether there has been a significant drop in serious offences.

Secondly, as a number of stakeholders suggested, referrals were likely to have been slowed down by lengthy closure of intake during the Sydney Olympics and the closure of the Court over the Christmas period. There have been signs of an acceleration in referrals since the holiday period, although the number of young people accepted onto the program has not risen significantly.

Another reason suggested by some of those interviewed was the limited publicity given to the program at the outset. There was a policy decision not to aim for a high public profile for the program at this stage. This is understandable given the political sensitivity of many law and order issues, but it may have had some impact in terms of program awareness among solicitors, parents and others in positions where referrals might be encouraged.

However, discussion with stakeholders suggest that the more fundamental reasons for low take-up in this first phase lie in the nature of the program itself and in certain facets of its administration in the first few months of operation. There are several, linked factors:

- The program's reputation amongst young people and their representatives
- The referral process
- The requirement to plead guilty to a serious offence
- The residence criterion.

Program reputation

Discussions with a range of stakeholders and YDC participants suggested that the program has a mixed reputation amongst young people in detention and in the community. Some stakeholders commented that young people who have been terminated from the program are good advocates for it, and regard it as not just a chance to stay out of custody, but also an opportunity to deal with their drug use and offending. On the other hand, there was also a perception that the program does not have a good profile because of time delays in the process of referral, screening and assessment, and the lack of guaranteed access to suitable accommodation or residential treatment. The argument is that because young people may often be remanded in custody while such places are found, the program loses some of its attraction relative to the alternatives.

There was also a view that some young people who might be eligible tend to weigh up the time and commitment required and choose to serve their sentence (which could be shorter than the YDC program). Solicitors too will look to get the 'best deal' for their client and may prefer to argue the case in court than refer the young person to the YDC, bearing in mind an assessment of the likely sentence compared to the six months of the YDC program.

The YDC was planned as being most suitable for serious young offenders who were facing a custodial sentence. Young people with less serious offending were not excluded from the YDC, but it was anticipated that they were less likely to find the six-month program attractive. Magistrates have the discretion to consider young people for the YDC who are facing only the 'possibility' of a control order. Even if this is encouraged, it is not clear whether it would lead to a higher level of program take-up. If it does, it could also result in 'net widening', by taking on young people whose offending or AOD use could otherwise have been dealt with by a caution or referral to youth justice conferencing.

Referrals

Some of the problems of delay in the early stages of the program were also exacerbated by difficulties in the referral process. The process is that a young person can be identified as suitable for the YDC program by the Children's Court Magistrate, prosecutor, Legal Aid or legal practitioner. The Magistrate considers eligibility before referral to the YDC, including the seriousness of the offence, criminal history, possibility of other forms of diversion and the likelihood of a control order. The YDC Registrar is contacted and the matter adjourned for a week to the YDC. Once referred, young people are screened for eligibility either in custody or in the community. Legal eligibility and suitability for the program is determined at the first YDC appearance after the initial screen has been conducted.

At an early stage, stakeholders reported that there were problems with referrals from Cobham Children's Court in particular. In response to this the JART Manager has arranged to have a program manager go to the court several days a week to perform an intake role. The program manager's continuing role is to educate the solicitors, Magistrates and young people in custody at Cobham about the program and advise on eligibility.

The Senior Children's Magistrate has recently issued a Practice Direction No. 18 (Children's Court of NSW, 2001) which addresses many of the matters of YDC procedure and which should, over time, ease the problems of referral and delay. This may not in itself, however, solve all the difficulties in the screening and assessment procedures which are discussed in the next section.

Requirement to plead guilty

The YDC program was planned to operate prior to sentencing, in order to provide a significant incentive and motivation for young people undertaking the program to succeed and then potentially reduce the length of their sentence. Under the Program Plan, young people who wanted to participate were required to plead guilty, or state an intention, to plead guilty to all current and outstanding matters at the referring Children's Court. If found eligible, the participant had to enter a plea of guilty before commencing the comprehensive assessment phase of the program.

The requirement to plead guilty to all matters is well known among the legal community as a condition of the YDC program, and may be one reason why some defending solicitors do not recommend that their clients apply to participate in it. The Children's Legal Issues Committee of the Law Society of NSW, for example, has raised concerns about the requirement that a young person plead guilty to all outstanding matters in order to be eligible for the program (letter to NSW Attorney General, 31/10/00). The Committee suggested that this arrangement may operate as an inducement to plead guilty to matters that otherwise would have otherwise been defended. This condition has since been changed so that the young person must plead guilty to the most serious charges and can plead not guilty to other offences.

Residence criterion

Stakeholders reported that the residential criterion (residence or identification with Western and South Western Sydney) was the most difficult to apply. It was reported that solicitors and parents had called the YDC hoping to gain a place for a young person on the program but failed to meet this criterion. This also suggests that the pool of potentially eligible young offenders may not be as large as estimated.

There are indications that take-up of the program is increasing: the number accepted in March 2001 was the largest monthly intake so far. Thus it may be that some of the initial barriers are being overcome. It will be important, however, to monitor the characteristics of participants as the intake increases, to determine whether the focus shifts away from the harder end of the juvenile justice population.

3 Screening and Assessment

3.1 Screening

The Program Plan defines the purpose of the initial screen as to confirm the young person's drug or alcohol problem and the link to offending behaviour, and to assess immediate needs such as health, treatment and housing. It was intended that this

screen would also act as a filter to reduce the number of applicants to the YDC to manageable numbers for the pilot.

In practice, the planned system of eight weekly referrals culled to 2-3 applicants for comprehensive assessment has not been required. Instead there are usually 2-3 referrals per week on average, most of which generally continue to the assessment stage.

In spite of the lower than anticipated numbers, stakeholders still reported problems with notification and timing issues from the referring courts. The referring court may take up to a week to advise the YDC Registrar of the referral (Lidcombe and Bidura rather than Campbelltown and Cobham) and then fax the court papers, including criminal history and current charges. This has meant there has been little time to complete the initial assessment for the day before the young person's first appearance at the YDC. If the initial screen cannot be completed in time, the young person may have to be held in custody for an additional week before the comprehensive assessment and there is no guarantee of program entry. Stakeholders suggested that this problem could be addressed through regular information sessions with all new Children's Court Magistrates and Registrars.

Stakeholders also reported that conducting the initial screen can be problematic when young people are on bail in the community because they are often difficult to locate. If the initial screen has not been completed by the YDC return date due to difficulties in finding the participant, the Magistrate may regard them as ineligible for the program.

In response to these problems, the JART and Court Team have agreed to trial a court-based initial screen to be conducted on the day of their first YDC appearance. The young person will be referred from the Children's Court to the next sitting of the YDC and the screen will be conducted at Court by Juvenile Justice staff. The screen will use a one-page form which provides information to the Court about AOD use and other eligibility criteria. This procedure is to be implemented from early May 2001.

A further issue in relation to the screening process is that of detoxification. In planning, it was assumed that young people requiring detoxification would have been identified at or prior to the initial screen. This means that they would have detoxed before their first court appearance. Stakeholders reported that this has not always happening in practice for the young people on bail. This has some implications for their capacity to give informed consent to participating in the program. However, the new procedures for the court-based initial screen will include the identification of detoxification needs and should also decrease the time between appearances at the referring Children's Court and the YDC.

3.2 Comprehensive Assessment

According to the stakeholders interviewed, the comprehensive assessment process is operating essentially as described in the Program Plan. Once a young person is screened as potentially eligible for the program, s/he is referred for comprehensive assessment by the JART (following any adversarial argument in court and based on the results of the initial screen). During this period the young person is located either in custody, in a stabilisation unit, at home or in other accommodation approved by the

JART. The matter is adjourned for 14 days, during which time each member of the JART, representing the Departments of Health, Juvenile Justice, Community Services and Education, conducts an in-depth assessment of the health, social and welfare needs of the young person. These assessments are then used to develop an individual Program Plan.

After the assessment is completed, the JART holds a case conference with the young person and family/support persons, DoCS case managers, program managers to discuss the Program Plan. A report is then compiled by a DJJ AOD counsellor from assessments undertaken by the JART, with a recommendation to the YDC that the young person be accepted onto the program or not.

The Program Plan provides a broad structure for participants' engagement with the program and forms part of the bail conditions. It generally includes one or more of the following conditions:

- to reside as directed by the JART;
- to undergo supervision by DJJ;
- to engage in a program of support/intervention by a case manager appointed by the JART;
- to participate in an alcohol and other drug residential program as directed by the JART;
- to participate in weekly individual counselling;
- to participate in weekly group-work sessions;
- to attend educational/vocational and recreational programs;
- to submit to urinalysis, as directed by the manager of the JART; and
- to attend report back sessions at Cobham/Campbelltown Courts.

The Program Plan is tailored to each participant and aims to address the young person's needs holistically while on the program. A DoCS case manager and program manager are allocated to the young person and work together to supervise the legal mandate and to implement, resource and coordinate the Program Plan in consultation with JART and the Court.

Although the assessment process seems generally to be working effectively, there are a number of issues. JART members suggested that the time allocated for completing the assessments for those on bail was unrealistic because of difficulties in locating participants and should be extended to 21 days. The timeframe between the development of the Program Plan and the young person's acceptance onto the program was also mentioned as problematic by some stakeholders, because it leaves insufficient time to set up and organise the practical elements of the Program Plan prior to the young person starting on the program. Some time can be then lost between the young person coming onto the program and their engagement with program

activities, through delays in arranging placements in residential treatment and accommodation services. Operational stakeholders commented that this delay at the beginning of the program was undermining some YDC participants' motivation and commitment.

It appears that there may also be a gap in service delivery in relation to accommodation between the initial screen and acceptance on to the program. The DoCS-funded services have not been becoming involved with the young person until the case conference and the development of the Program Plan. This means that the JART has to take responsibility for arranging accommodation for the young person during this period, when it was originally planned as the role of the DoCS-funded services.

Finally, JART members commented that owing to the chaotic lives of the YDC participants, they may have to conduct a number of JART assessments over the course of the young person's involvement in the program in order to identify their needs at different stages. This has implications for the resourcing of the JART.

3.3 Acceptance Onto the Program

Following the comprehensive assessment and the development of a Program Plan, the young person returns to Court to enter a guilty plea and is formally accepted onto the YDC program. The YDC Magistrate defers sentencing for six months and places the young person on a Griffiths Remand order under section 33(1)(c2) of the *Children (Criminal Proceedings) Act 1987*. The bail conditions generally require that the young person comply with the Program Plan and reside as directed by the JART. The young person signs an undertaking to this effect.

When a young person enters the program, a notice is put on the police computer system to say that they are on the YDC program in lieu of a control order. If the police come into contact with the young person for any reason, they are advised to call the YDC prosecutor with details of the incident. For example, a participant's bail conditions may proscribe him/her from being in the Cabramatta town centre and the police system can provide information about any breaches of bail to be addressed in a report back session.

This element of the process seems to be working effectively and stakeholders reported no particular problems, although difficulties have arisen in relation to bail as a result of shortages of suitable accommodation. This is discussed in the next section.

4 Accommodation

Responsibility for accommodation and treatment under the YDC program lies with different Departments (DoCS and Health respectively), although these two services have in practice become closely intertwined in the pilot. There has been a shortage of suitable accommodation for participants and potential participants at all stages in the process. Since some treatment facilities are residential, short-term housing needs of some participants are met through these facilities, although referral to them is based on the assessed need for a more intensive therapeutic intervention in a structured

environment. Because of the different areas of responsibility, these issues are dealt with separately in the report, but their interrelation should be acknowledged as it raises questions of interdepartmental coordination.

4.1 Short-term Accommodation

The YDC program model was based on enhancing existing services rather than developing new services specifically to service the Court (see *Government Plan of Action*, NSW Government, 1999). The aim of the program was to manage YDC participants in the community, with the NSW Health Department providing treatment interventions and DoCS providing accommodation services and case management.

The accommodation was to come through the Youth Supported Accommodation Assistance Program (YSAAP) services, with extra funding from DoCS to support the YSAAP providers while the YDC participants were accessing these services.

In spite of the low take-up of the program so far, accommodation has proved in practice to be one of the most severe problems in the implementation of the YDC pilot. Stakeholders at the operational level all emphasised the chronic lack of suitable short-term accommodation for young people in Western and South Western Sydney. The most pressing need has been for short-term accommodation where participants can be placed while longer-term accommodation is sought. The problem is compounded by the nature of the YDC target group. They have often either had prior unsuccessful placements and cannot be readmitted into the services, or are excluded due to their recent history of AOD use, and the YSAAP services' own perception of their lack of ability and training to work with this target group.

Stakeholders saw the accommodation shortage as having arisen for the following reasons:

- It was not anticipated at the planning stage that so many YDC participants would be assessed as requiring immediate removal from their current living arrangements where they are entrenched in drug use and offending behaviour. Many YDC participants do not have family support and positive community ties. This is an important aspect of the 'hard end' focus amongst participants discussed earlier.
- Some YDC participants lead highly transient lifestyles and they need to be stabilised in appropriate accommodation in order to successfully engage with the program.
- Youth accommodation services generally have policies of refusing young people with AOD issues, and the name 'Youth Drug Court' is often a barrier to placing the young person with a service. A large number of the YDC participants have previously accessed these refuges and have been asked to leave for drug use, violence, theft or other proscribed behaviours. Thus they are unlikely to be readmitted;
- The waiting lists for short-term accommodation beds are long and if the Court determines that the young person is at risk to/in the community, they may be ordered to wait in custody for accommodation to become available. Similar

problems apply to residential treatment services. There is a danger that this may make the program less attractive to potential participants.

In response to these problems, the DoCS-funded services have established networks with YSAAP and other services in Western and South Western Sydney and some agencies have agreed to accept YDC participants. However, it is reported that the cost of supplementing YSAAP services outstrips the resources available for YDC participants through the DoCS-funded brokerage services. Securing YSAAP accommodation can involve a supplementation of \$2,000-\$3,000 per week per refuge. This is likely to be only a short-term option, not least because it substantially reduces the funds available for participants' other needs.

The DoCS representative on the JART, working with the case management services, is also negotiating with the Department of Housing for four bedsit units at Warwick Farm to be allocated to YDC participants. The YDC participants to be placed in this accommodation would be intensively supported, but would require some independent living skills and could access this accommodation toward the end of their YDC program.

4.2 Consequences of the Shortage of Accommodation

A majority of stakeholders referred to the accommodation problem as a significant barrier to the implementation and current operation of the program and suggested that the configuration of funded services needs to be reviewed in terms of participant needs. Stakeholders involved in the operation of the YDC commented that the lack of suitable accommodation "stalls the whole program implementation" and was a "gross underestimation of the needs that these particular kids have in terms of their entrenched drug use and offending".

The JART and service providers are finding that until the YDC participants are placed in suitable, stable accommodation, there is little work that can be done in implementing the Program Plan and engaging the participant in other YDC services. Stakeholders reported that the lack of accommodation was impacting negatively on some young people's perception of the program, their level of motivation and commitment, and their capacity to engage with the program, and could actually place young people at risk. One stakeholder commented that:

Most of the children we are dealing with are difficult. They are well entrenched in crime, they are well entrenched in drug addiction and they lead an extremely transient lifestyle, and so the priority has to be to stabilise them in accommodation.

It appears that in some cases, rather than stabilising the young person, the YDC process is replicating their transient lifestyle through short-term placements in and, as a last resort, custody. The use of custody for YDC participants who cannot be placed in accommodation for a variety of reasons is problematic given that the YDC was planned as a community-based program intended to divert young people from detention.

In situations where a young person is facing custody because there is not suitable accommodation, the Court may terminate the young person from the program with their consent. The participant is sentenced by the YDC Magistrate or returns to the

referring court, and the time spent on the program is taken into account in their sentencing.

While accommodation needs were canvassed in the planning process, it appears that there has been some mismatch between the service delivery model and the needs and circumstances of YDC participants – mainly repeat offenders with high risk behaviours and high levels of drug dependence. One stakeholder involved in the planning process commented that the “model didn’t consider accommodation or detox properly... (it) hypothesised that [some] people could detox in the community.” Some stakeholders involved in the operation of the YDC also described the planning process as too centralised at senior executive level, with insufficient input from people with recent field experience. It should be noted, however, a treatment services planning group was convened by NSW Health that included highly experienced researchers and academics as well as health staff from Western and South Western Sydney.

Stakeholders also recognised that there are wider issues involved in the provision of accommodation and treatment services for groups that carry considerable social stigma. There are continuing difficulties in finding places where local communities and councils will accept such provision.

5 Treatment

There has been minimal use of pharmacotherapies, such as naltrexone and methadone, as a treatment for young people on the YDC program. Stakeholders reported that maintenance therapies are generally not considered appropriate for young people given their unstable, unstructured lives and lack of viable family or community supports. A typical program plan concentrates on providing detoxification where required, followed by tailored treatment interventions based on a range of psychosocial approaches.

5.1 Detoxification

Expert opinions vary on the need for medical detoxification services for young people and these opposing views were expressed at different stages throughout the YDC planning process. However, practitioners have noted a shortage of detox beds for YDC participants. Where detoxification was needed, it was assumed that this could take place either in custody if bail was refused (there are six beds at Cobham² for young men and two beds at the Yasmar Centre for young women, though these are not dedicated to YDC program), or in the community for those on bail, either through existing in-patient services or through 'home detoxification' provided through Area Health Services. The expectation was that most of the young people entering the program would have serious criminal histories and be unlikely to receive bail for the assessment process.

² The detoxification facility at Cobham detention centre was not operating for part of the implementation period due to an industrial dispute. This has now been addressed and the facility is operational and fully occupied.

As discussed above, heroin has turned out to be the major problem drug and participants have an unanticipated intensity and level of use, leading to greater demand for detoxification. With the closure of Dunsmore House in early 2000, there is now only one adolescent-specific detoxification services in Western and South Western Sydney – Dunlea, which is operated by Youth Off the Streets and is located at Merrylands. Priority access has been negotiated to two beds in Corella Lodge and other beds at Centre for Addiction Medicine in Parramatta, and the Adolescent Ward of Westmead Hospital. However, most of these in-patient detoxification services are designed for adults. JART members commented that mixing YDC participants with adults in these services could place them at some risk.

In many cases the family home has also proved not to be a viable location for detoxification. Often the JART has assessed the young person as needing removal from their current living arrangements where there are child protection issues, drugs in the home and family members involved in crime. In response to the lack of adolescent-specific detoxification beds, YDC participants often have to remain custody to contain their drug use and risk-taking behaviour before program entry.

Concern was also expressed that young people on bail in the community for the initial screen may not detox before their first appearance before the YDC. This can create a significant delay in the assessment before the young person can enter the program. It also raises some questions about whether young people are always able to give informed consent to participate in the program.

The majority of stakeholders interviewed who were involved in the operation of the YDC felt that there should be detoxification beds specifically designated for YDC participants. When discussing expectations of the YDC, most assumed that as a specialist program targeting young offenders with AOD problems, it would have dedicated detoxification and rehabilitation beds. Stakeholders reported that people from outside the program were surprised that the YDC could have been set up to intervene in the lives of high level drug users and offenders without these treatment needs being addressed. Most agreed that while the YDC program is well resourced overall, it does not provide immediate, guaranteed access to the basic and specific residential treatment services necessary for its target group.

5.2 Stabilisation

The service delivery model included a six-bed residential stabilisation unit to accommodate young people for up to two weeks during the comprehensive assessment. It was anticipated that, where necessary, young people who had breached or required a review of their Program Plan could re-enter the stabilisation unit for a short period (maximum of two weeks). It was not intended that the stabilisation unit would be used where short-term accommodation was unavailable.

The stabilisation unit was to be located at the former site of the Liverpool Youth Refuge at Flowerdale Road, Liverpool. However, the Liverpool Council has recommended refusal of the NSW Health/South Western Sydney Area Health Service (SWSAHS) development application for the site and as at late May 2001 mediation with the Council, by the Department of Urban Affairs and Planning, had not yet taken place. NSW Health has been investigating alternative locations in the Western and South Western Sydney.

As an interim arrangement, the stabilisation unit was operating out of two locations. There were four beds available at Nick Kearns House in Bankstown, and two at PALM West in Parramatta, run by the Ted Noffs Foundation. The stabilisation unit has six staff plus a coordinator, with two staff placed at PALM West and four at Nick Kearns House. YDC participants are admitted for the two-week comprehensive assessment period, or for review of their Program Plan after a breach. Stakeholders commented that the stabilisation services have been underused for the comprehensive assessment, but instead have been used for review of Program Plans.

Stakeholders commented that there have been some difficulties in the delivery of two different services out of the one location. For example, Nick Kearns House ordinarily operates as an adolescent crisis refuge and their residents participate in a program that is designed for their needs. In this context, Nick Kearns House residents often have more independence, such as the ability to leave the refuge during the day without staff supervision. This conflict in operating arrangements and philosophies due to the co-location was reported as causing significant problems for staff in both teams, and for consistency in service delivery to participants of both programs. In response to these problems, the co-location arrangement between the stabilisation unit and Nick Kearns House was terminated by Health at the end of April 2001. The Nick Kearns House partnership was initially meant as a short-term arrangement over the end of year break to provide short-term crisis accommodation for YDC participants. This partnership was extended for use by the stabilisation unit in the absence of independent premises, and in consultation with JART.

The stabilisation unit now consists of 2-3 dedicated beds at PALM West for YDC participants in the comprehensive assessment phase of the program. These beds are for young men only, so there are no beds for young women in the assessment stage. Only four young women have been referred to the stabilisation unit since the YDC began, with only two of these young women taking up residence for a significant period of time. This is primarily because the majority of young women referred for comprehensive assessment so far have had applications for bail refused by the Court on legal grounds. Alternative arrangements have not been made at this time because NSW Health is hopeful that the purchase of properties at Bradbury (Raith and Lark Hill) can be approved and finalised in the near future, and that the stabilisation/induction unit can be relocated.

5.3 Residential Rehabilitation

No new rehabilitation services were created with the funding available for the YDC program and there is only one adolescent-specific service in Western and South Western Sydney – at PALM West. Because of the temporary location of Palm West on the Cumberland Hospital campus, no new beds could be created for the YDC through funding enhancement. The assumption was that if rehabilitation was needed, participants would go on waiting lists for existing services, enhanced with Drug Summit funding (NSW Government, 1999).

YDC clients do not have priority admission for PALM West beds. Stakeholders commented that rehabilitation beds need to be available at short notice so that the participant's engagement with the program is not suspended while suitable treatment is arranged. This would require beds to be kept vacant in case of need. However, it is unlikely that a dedicated YDC rehabilitation service would fully address the problems

in immediately accessing treatment for participants, unless the unit was unusually large. Most rehabilitation programs have small numbers and run for three months, meaning that there would probably be a backlog of YDC referrals.

At present, YDC participants have to compete for rehabilitation places with all other young people in Western and South Western Sydney. This has meant that young people in the program have had to be placed in rehabilitation services as far away as Cowra, the Central Coast and Canberra. In these circumstances, it is difficult for the case managers to implement the Program Plan and bring the participant to Court for fortnightly report backs, or for program managers to supervise the legal mandate and manage health and safety risks. Stakeholders also reported problems with YDC participants mixing with adult and voluntary clients in rehabilitation services.

One young person interviewed, for example, was in custody for six weeks prior to commencing the YDC program (having been 'bail refused' for several weeks before referral to the program). Once assessed as eligible and accepted onto the program, he had to wait in custody for another six weeks until a rehabilitation bed became available. The participant was at the residential rehabilitation service for about two weeks and was then expelled for breaking the rules. At the time of the interview he was back in custody waiting for another bed to become available.

The majority of stakeholders involved in the operation of the YDC said that there should be rehabilitation beds designated for YDC participants. However, at a conceptual level, some stakeholders questioned the value of residential rehabilitation for young people and commented that it seemed more appropriate to adult users. Some suggested that YDC participants were being placed in residential rehabilitation services mainly because there was no other suitable accommodation and/or treatment available to them. Those responsible for referrals, however, argued that the therapeutic needs of young people were the only criteria taken into account.

There have also been conflicts between the objectives of the PALM program and those of external case managers. For some participants, the number of workers involved through YDC has made it difficult for them to engage with the rehabilitation program. This issue is reported to have been resolved. Once the YDC participant begins the PALM program, they become subject to PALM rules and procedures and are case managed through that program in consultation with JART, program manager and DoCS services. This situation may change as new treatment services become available, but it highlights some of the difficulties arising from the involvement and partnerships between multiple service providers and case managers in a program with relatively few participants as yet.

5.4 Health day-programs

There were five day-programs established within existing services and funded by NSW Health. The day-programs were intended to provide services including counselling, group work, relapse prevention, developing social skills and community integration. It was anticipated that YDC participants would engage with the day-programs around the mid-point of their YDC program, although in practice some are referred to them from point of entry to the program.

The providers include Open Family (specifically for Indo-Chinese young people), Tharawal Aboriginal Corporation (indigenous young people), South Western Sydney Area Health Service, Western Area Adolescent Team, and Ted Noffs at St Marys. One of these programs (Tharawal) was still not operational at the time of writing and most of the others have not started operating programs as originally envisaged, largely because of the low client numbers. The NSW Health representative is liaising with the providers and with the JART to clarify the role and scope of the services that are required from the day programs given these low numbers.

5.5 Proposed Induction Unit

The difficulties identified in engaging young people in the early stages of the program have led a number of stakeholders to suggest that participants require more than a two-week period of stabilisation.

The JART Manager has developed a proposal for an ‘induction unit’ to operate within the YDC program, using the staff and resources currently allocated to the stabilisation unit. It is suggested that all participants (barring exceptional circumstances) would reside in the unit for a period of up to four weeks after they have been accepted onto the program. This period in the induction unit would serve to stabilise the participants and allow the JART and service providers to provide intensive therapeutic intervention and case management and to build detailed Program Plans. These would include accommodation and treatment options, support arrangements and engagement in activities that could commence immediately on exit from the unit.

The argument is that this induction process could focus the motivation of the participant at the point of entry to the YDC program and establish the intensive nature of their engagement with the YDC. Some young people at present are ‘marking time’ because aspects of the Program Plan cannot start, with a consequent impact on their motivation, as evidenced by the level of absconding and lapses in the early stages of the program. Many young people go to services that are not a funded part of the YDC program, such as rehabilitation services, and there are few opportunities to develop a therapeutic rapport between the young person and the YDC team. A number of stakeholders commented that for participants bailed to the community, being on the YDC program made no immediate difference to their lifestyle apart from attending counselling and Court. The induction unit would provide an intensive beginning to the YDC program and expectations, and also valuable ‘time out’ from the participant’s problematic environment and chaotic life.

The introduction of an induction unit could reduce the need and demand for detoxification and rehabilitation beds in the early stages of the program, and may assist the identification of committed and motivated participants.

However, YDC resources cannot provide for both the stabilisation and induction unit. If approved, the induction unit will be developed from stabilisation unit staff and resources. There will be no dedicated stabilising residential environment for YDC applicants while they are being comprehensively assessed, and the provision of a stabilisation unit will not alleviate the need for crisis accommodation for YDC participants.

6 Service Provision

6.1 Program Coordination

The model involving the interdepartmental assessment and review team (JART), DoCS-funded case management services, DJJ AOD counsellors and Juvenile Justice Officers, and Health-funded day programs, was planned to provide a coordinated approach to service provision for the YDC. The JART was intended to be co-located with the stabilisation unit to facilitate access to the participants during the assessment process.

Throughout the first six months of the program, there seems to have been a lack of clarity about the roles and responsibilities of the various agencies and staff involved. In some cases, program managers and DoCS case managers were performing very similar tasks, which reportedly caused considerable tensions within the team. In addition, the number of players from different government departments and the non-government sector meant that effective communication and a shared understanding of roles and responsibilities was crucial to the YDC operation. Both communication and the recording and dissemination of information have been difficult in the absence of a comprehensive YDC database system (this is discussed further below).

Cohesion and coordination has also not been assisted by the physical location of the JART not being finalised by the time the program started. As yet, some JART members do not have adequate IT support.

Staff of the stabilisation unit are currently not involved in any formal reporting to the Court. When a participant has been placed in the unit after a breach, the unit staff report on their progress to the case manager. Stakeholders suggested that it would be appropriate for stabilisation unit staff to present a report to the Court in this situation, considering their close involvement with the participant during this period. The program managers are mainly involved in supervising the legal mandate, conducting initial screens, compiling the comprehensive assessments by JART and writing reports for report back sessions. Some reported that they had little time left to carry out individual counselling and group work, although processes have since been streamlined to address this problem.

This uncertainty about roles and responsibilities, together with the large numbers of stakeholders involved in the assessment and service delivery process at times, have made it difficult for staff to work collaboratively across government and non-government sectors. One commented:

Most of the communication difficulty has come from just too many cooks, so many people just gravitating toward taking control, everyone swarming on these poor kids.

The participants interviewed also found the number of people involved overwhelming, especially in the assessment process, although they appreciated the level of support available. The new process for the initial screening, described earlier, should address this problem.

Some stakeholders at the policy level suggested that there has been a level of over-servicing of clients because of the lower than expected intake, but this has been

difficult to confirm because of the problems of service coordination. It was suggested that over-servicing may be reduced if the number of participants grow, but it also needs to be addressed through staff training. There were also differing perceptions of what young people are doing on the program. In spite of low numbers of participants, staff reported being overwhelmed by work, and yet there was a perception amongst some stakeholders that participants did not have sufficient structured activities while on the program.

After a number of internal meetings about roles, responsibilities and procedures, a document has been developed by JART to help clarify these issues and to develop practical systems and timeframes to assist the YDC to operate effectively. The JART and the Court Team have also established joint monthly meetings to discuss issues and procedures.

Stakeholders commented that there needed to be regular meetings between the JART and the DoCS-funded case management services to address problems in service delivery at a managerial level, and these has also been implemented. Formal case reviews are also now convened between caseworkers and program managers and written documentation of these reviews is provided to the JART.

The JART is planning a training session with case managers and program managers on Court requirements for reporting and attendance at report back sessions. A number of staff were recruited to the program at a late stage and need a review of their role and skill development.

6.2 DoCS-funded Case Management Services

The DoCS-funded case management services include The Junction Works Inc., the Indigenous Social Justice Association Inc. and Marist Community Services. These services coordinate, resource and implement the Program Plan in consultation with the JART and the supervising program manager. The services are managed internally but with some overall coordination by the JART member from DoCS.

The case managers reported that their ability to provide case work support for participants in the initial period of the pilot program was limited by the amount of travel required within the Western and South Western Sydney area. Service providers commented that their staff were regularly travelling long distances to visit participants and take them to appointments. Also, as mentioned earlier, some YDC participants had been placed at Cowra and the Central Coast. Services were not funded to provide such a transportation service, although it is sometimes a necessary part of case work support to accompany young people to appointments. The role of case managers is in part to ensure that young people can fulfil their program plans requirements, including attending appointments, but dependence on these workers for transport is not necessarily appropriate. The transport issue has also to some extent been exacerbated by the low program take-up, especially in the Cobham Children's Court area, as there has been a need to spread the referrals received across the three brokered services, even though the participants might not come from the particular service's area.

There has been considerable discussion about this problem since the pilot started and case managers are now encouraged to consider alternative solutions.

A number of stakeholders commented that availability of transport and brokerage funds for the YDC participants may be detrimental in terms of creating dependency on the program. In their opinion, the program should aim to support participants in developing the skills to have an independent lifestyle. Stakeholders in services attached to the YDC commented that when the case managers stopped taking the participants to appointments, participant attendance declined significantly.

There were also some conflicts reported between the DoCS-funded services and DJJ program managers about how the brokerage funds should be used to benefit the young person. There have been instances where goods and services have been purchased for a participant without the consent of, or consultation with, the case manager.

In general, there has been a need for substantial clarification of the respective roles, responsibilities and philosophical approaches of the case managers in relation to the DJJ staff in ensuring that young people comply with the conditions of the legal mandate which includes their program plan. A further review is planned to ensure that practice and procedures are in place to provide young people with the opportunity to reach their full potential.

6.3 Education and Training

The Department of Education and Training (DET) did not receive any specific funding under the Drug Summit initiatives to support their participation in the YDC pilot. Their involvement in the program came late in the process after the Director of the Crime Prevention Division of the Attorney General's Department visited drug courts in the United States and identified the importance of education in achieving successful outcomes. The position of the JART member from DET is currently funded by NSW Health and DET has received no specific funding to resource educational programs for the YDC.

The problems of accommodation identified earlier, and the consequent instability of participants' lives while on the program, make it difficult for them to engage in educational activities, particularly those of a formal kind, even where such activities are available. There are few courses available or appropriate for young people at risk, and particularly for YDC participants with unstable and chaotic lives. It was reported that YDC participants are generally not education-ready, have very low literacy levels, have not attended school for a number of years and do not function well in a classroom environment. Education stakeholders commented that YDC participants need to have a positive educational experience that is adapted to their level of readiness.

To address these problems, the DET JART member has negotiated with South-Western Sydney Institute (SWSI) of TAFE to develop a flexible course for YDC participants which may better address their needs. The course has been operating since 10 April 2001 and will continue until the end of June 2002 and is funded by SWSI 'TAFE Get Skilled' and the DET 'Helping Young People at Risk' program.

The YDC course operates for three hours per day, two days per week from the YDC premises in Liverpool. It has a literacy and numeracy focus, with 'tasters' of vocational programs at various TAFE colleges. YDC participants are enrolled in the TAFES, studying accredited modules and can remain in the course for the duration of

their YDC program. The course has rolling enrolments to match the needs and effectively engage the YDC participants in education and vocational training.

Prior to this course being implemented, the DoCS-funded case management brokerage funds were used to purchase the services of a literacy and numeracy tutor for participants. Two participants are currently completing year 10 through distance learning and receive tutoring through the course.

Although this is a welcome innovation, DET representatives commented that the six-month timeframe for the YDC program made it very difficult to achieve any positive outcomes, in terms of preparing and linking participants to education and training opportunities in a productive and sustained way. Any continuation of the program beyond the pilot phase would require adequate resourcing for DET staff and programs.

Some stakeholders also commented that participants are engaging in education at a later stage in the program than expected and that therapeutic and welfare interventions (usually of a crisis nature, including accommodation) are taking priority.

7 Court Processes

7.1 Court Resources

Two magistrates are allocated specifically to the YDC program, one at Cobham (Mondays) and one at Campbelltown (Thursdays). This can assist with program consistency because the magistrate has the opportunity to develop a relationship and rapport with the young person which should increase the effectiveness of sanctions and save time in report back sessions. Some stakeholders commented that the program would benefit if there were a single dedicated magistrate, as in the Adult Drug Court. This was thought at the planning stage to be difficult because of Children's Court circuit requirements.

In the initial period the YDC experienced problems with the lack of a dedicated court room at Cobham which meant that formal parts of the court process (referrals, breaches of bail, program acceptance) had to be fitted into morning, afternoon tea, and lunch adjournments of the main Children's Court. However, there is now a court room set aside for the YDC at Cobham and there is generally a court room available at Campbelltown although difficulties remain when extra courts are sitting.

Once a young person is formally accepted onto the program the court process becomes non-adversarial and the Court Team (Prosecutor, Legal Aid, JART representative and case manager) functions as an advisory body to the YDC Magistrate.

Most stakeholders said that the court processes, including report backs, were time consuming, with participants, family members and service providers waiting around for long periods. The Court Team is now working to streamline court processes and report back sessions.

7.2 Report backs

The planned YDC model involved 2-3 'Phases' of report back sessions. In Phase 1 the participant would report fortnightly, Phase 2 involved monthly reports and Phase 3 would commence after the participant had graduated from the program and would consist mainly of after care. To date, no YDC participant has progressed to monthly report back sessions, although there has been one 'graduate' to date.

The Court Team meets prior to the report back session to discuss any major issues. In preparation for the report back session, the caseworker writes a brief report on the progress of the young person in relation to their Program Plan, and the program manager writes a brief report on the participant's response to supervision. These reports are read in conjunction and provide recommendations for variations to the Program Plan or bail conditions. The reports are approved by the JART Manager and have recently been modified to provide more detail to the Court.

In the report back session the Magistrate discusses the young person's progress (positive or negative) on the program, and any barriers to achieving the Program Plan. The sessions are attended by the Court Team, JART representative, program manager, case manager, young person and family/support persons. The young people are encouraged to speak for themselves and discuss with the Magistrate what they enjoy, and what they would like to change about their Program Plan. The report back sessions are intended to be conducted in a way that develop a sense of ownership and engagement with the program on the part of the young person. The Magistrate may adjust the bail conditions to assist the young person to better engage with the Program Plan, or to enforce compliance after a breach. Decisions in report back sessions are made by the Magistrate on the advice of the team.

The YDC participants interviewed as part of this review all commented that they liked the report back process and being able to develop a relationship with the magistrate and prosecutor as well as the Legal Aid representative. There was a view that everyone was there to support them and wanted to see them succeed on the program. This view was reflected in observations of report back sessions where participants were able to speak up about the positive and negative aspects of their Program Plan, and disclosed drug use to the magistrate.

There were some concerns expressed by stakeholders involved in service provision about the communication of information from the report backs sessions, although this is apparently recorded and available from the JART. Other stakeholders are also encouraged to attend the sessions.

8 Breaches and Sanctions

8.1 The Process for Responding to Breaches

The question of compliance with program requirements - and consequent sanctions for breaches of compliance - is a particularly difficult one for a program of this kind, which deals with young people with serious offences, heavy drug use and multiple social needs. It was intended that a model of rewards and sanctions for positive and negative program behaviour would be developed within the context of the program, but this was not specified in detail in the YDC Program Plan.

The practice which has developed is that when a participant breaches an element of their Program Plan (most typically through absconding, reoffending, or an extreme lack of participation in the program) the JART is notified as soon as possible. The JART Manager contacts the YDC Prosecutor who circulates the identity of the young person on the police system to indicate a breach of bail conditions. If the young person does not appear within several days, a warrant is issued under Section 50 of the *Bail Act 1978*. When the young person is apprehended, they are taken to the nearest police station where the warrant is executed, charged under the warrant (or Section 50) and bail refused. The participant then appears at the next available Children's Court sitting where the magistrate can review, vary or refuse their bail. The participant is then remanded to appear at the next sitting of the YDC where their matter may be listed for termination.

In the YDC, bail conditions are used as a system to provide sanctions and rewards. If a participant demonstrates positive progress and engagement with the program, then curfews may be relaxed. Conversely, the response to a breach is normally to increase the level and frequency of supervision.

When it is apparent that a participant is acting in a way that compromises their participation in the program (eg. drug use, not keeping appointments), the Magistrate is informed and orders the participant in to Court at the next sitting for discussion of the breach. Drug use while on the program is sometimes detected through urine tests.

8.2 Drug Use and Urinalysis

In the YDC planning process, the Department of Juvenile Justice prepared a policy paper outlining the use of urinalysis in the YDC program to "provide a baseline measure of drug use, inform the case history and support the development of a treatment plan." YDC participants were to have a minimum of two and a maximum of six urine tests over the course of their involvement in the YDC. A urine test is conducted as part of the initial screen for eligibility for the program. The paper recommends that urinalysis be used to assist the treatment intervention and to provide an indicator of positive or negative progress on the program rather than as a punitive measure. When a positive test was received, the Program Plan should be revised and interventions should be more frequent, rather than imposing court-based sanctions.

As planned in the YDC, urinalysis does not occur on a regular, systematic (or random) basis, but rather when requested by a representative of JJ/JART/Court Team. The sample is collected by the JART member from health (but will be collected by the DJJ community nurse when this position is filled). The samples are sent for analysis by PALM laboratories and cost \$21 each for processing. Stakeholders in the Court Team commented that it can take up to three weeks for urinalysis results to be notified, which causes problems in terms of providing an immediate and effective response to a positive test.

The issue of urinalysis is contentious, and highlights differences of opinion amongst YDC stakeholders as to whether the program should be based on harm minimisation or abstinence. Amongst YDC operational staff, there were conflicting views about how urinalysis should be used as an element of the program: should it be a deterrent or measure of drug use within a program based on abstinence; or as a means of encouraging honesty and self-disclosure within the program, based on harm

minimisation? Some commented that urinalysis has not been as regular or as random as they anticipated and that there has been a disparity between its use for different participants. One argument was that increasing urinalysis would have a limited effect because the majority of YDC participants already disclose their drug use in counselling. The context and reasons for the drug use are then discussed in the next report back session, and the Court may respond by tightening supervision and increasing counselling.

In terms of sanctions, the focus of the JART and Court Team is on reoffending and lack of program participation rather than on drug use. When participants report drug use while on the program, the JART and Court Team view this as a flag to review the Program Plan and to increase the level of supervision. The Magistrate makes it clear to the participant that drug use while on the program is unacceptable, discusses the context for the drug use and the bail conditions are varied as required.

A number of stakeholders expressed concern about revoking a participant's bail for a breach such as leaving a treatment service, ie for a breach of what is a therapeutic program rather than for criminal behaviour. The consequence of this is that the breach appears on the young person's criminal record and may have implications for future dealings with the criminal justice system, such as making it more difficult for them to get bail as an adult. On the other hand, it was reported that the risk factors for the young person and the community are always considered in judgements about bail revocation.

8.3 Sanctioning

There was a perception among stakeholders not directly involved with the Court that the YDC has few available sanctions to be applied after a breach. Some commented that many of participants have only agreed to go on the YDC program so that they can stay out of jail, are ambivalent about the program, and are resistant to changing their lifestyle. They argued that the program at present could be seen as condoning offending and drug use by not offering direct consequences for this behaviour. There were differences of opinion about whether young people were being given too many chances by the Court to prove themselves, and some stakeholders also felt that boundaries of acceptable behaviour and participation while on the program were inconsistently and unfairly applied. One said:

I thought it would be a lot stricter ... I think everyone should have the same rules ... Some of these kids don't have any boundaries, so they need to know, if I do this there are going to be consequences.

Some of the participants themselves also expressed surprise at not being terminated from the program after absconding or continuing drug use.

One view was that the Adult Drug Court model of custody for non-compliance should be adopted, or that a set of appropriate sanctions should be developed for specific types of program breach and that if the behaviour continued with no improvement, the young person should be terminated from the program (along the lines of a 'three strikes and out' model). To be effective, such sanctions must be immediate, with graduated levels of response, framed in terms of 'consequences' for negative actions.

This approach, however, conflicts with the idea that the purpose of the program is to draw in (and keep in) young people with the most challenging behaviour and needs.

Some stakeholders also commented that young people do not appear to have enough to do while on the program, or do not want to actively engage with the program beyond attending mandatory appointments. For these stakeholders, it was unclear what the Court expects in terms of engagement and participation and how this might be monitored and measured in report backs. Some of those directly involved with the young people said that there were instances where the report backs failed to present the real story of the participant's lack of engagement with the program and the exact circumstances of a breach. YDC participants also said that they want to have structured activities to do every day, "or else you can get bored, look up old friends and get in trouble again".

8.4 Rewards

Rewards were regarded by many of those interviewed as equally important as sanctions, in terms of recognising positive engagement with the program. In the report back sessions, the Magistrate generally talks with the participants about their progress and congratulates them on their hard work. Participants made positive comments about the experience of talking to and having a rapport with the Magistrate (and other stakeholders) and said that this made them want to stay motivated and succeed on the program. One participant even said that the report back sessions were something to look forward to instead of being in trouble all the time.

8.5 Termination

The practice on termination has developed as follows. Where a YDC participant has seriously breached their Program Plan (bail conditions), a warrant may be issued by the YDC Prosecutor. When the young person has been apprehended for a breach of bail, the prosecutor may indicate that there is a case for termination from the program. The matter is brought to the Court and the Magistrate adjourns the hearing (for one week) so that JART can prepare a report recommending either that the Program Plan be modified to meet the participant's needs and engage them in behaviour modification, or that they should be terminated from the program. The prosecutor and defender make submissions in an adversarial setting as to whether the young person should remain on the program. The Magistrate considers the advice of JART and makes a decision.

A similar process operates for participants in custody who have breached their program plan and exhausted all available accommodation placements. In a team meeting, the Court discusses the participant's engagement with the program, length of time spent in custody, likely length of original sentence, and the nature of charges and decides whether it is beneficial for the participant to remain on the program. If the young person wishes to remain on the program, the matter is listed for a termination hearing with adversarial argument and the YDC Magistrate has the final decision.

Where a young person has been terminated from the YDC program, they are either sent back to the referring Children's Court for sentencing or can be sentenced in the YDC itself. Under the YDC Program Plan, their participation in the program must be taken into account in sentencing. They can then make an application to the Court to

reverse their plea of guilty, at the discretion of the Magistrate, in the grounds that they were induced to so plead because they wanted to go on the program.

Only seven participants have been discharged from the program so far, so it is unclear as yet whether there are any particular problems with this process.

9 Graduation and Sentencing

9.1 Graduation from the Program

After the young person has been on the program for six months, the Magistrate, on the advice of the Court Team and the JART, determines whether they can 'graduate', or whether an extension of the program is required.

The YDC Program Plan is not specific about what participants are expected to achieve in order to graduate from the program. It could include reduced offending, reduced drug use, participation in education, stability and readiness for independent living. Stakeholders in the JART and Court Team commented that the issue of graduation and successful program completion needs discussion and clarification. The YDC and JART deal with every participant on an individual basis, but stakeholders agreed that graduation should require the participant to meet certain objective milestones. A recent meeting of these teams resolved that participants should have a 'graduation review' at the mid-point of their program to determine the goals to be achieved prior to graduation.

To date only one young person has graduated from the program, so it is too early to comment further on the process.

A majority of stakeholders strongly agreed that the after-care component of the program should remain voluntary and not form part of any probation conditions or orders. In cases where the Court considers that after-care should be mandatory, the general view was that the young person should not graduate from the program.

9.2 Sentencing

When the program has been completed successfully (or otherwise terminated), a sentence is imposed under Section 33 of the *Children (Criminal Proceedings) Act 1987*. The operating principles of the YDC program require that the sentence must not be more severe than would otherwise have been imposed by the Children's Court. Similarly, the sentence imposed for young people who do not complete the program, must be no more severe than that which would have been imposed had they not agreed to participate in it.

When sentencing, the Magistrate must take into account the young person's compliance and participation in the YDC program. In sentencing, the Court is supposed to revert to an adversarial process as per normal Children's Court matters, although in the case of the first YDC graduate the Court Team held a meeting to determine an appropriate sentence, recognising the young person's engagement and achievements while on the program. The young person had relatively minor charges

and asked for further supervision and continued involvement with the program on an after-care basis. The young person was given a three-month supervision order.

In cases where participants are terminated from the program, they can be sentenced by the Youth Drug Court rather than returning to the referring Children's Court. The supervising program manager writes a report about the young person's progress on the program and the sentence is determined by the YDC Magistrate. The practice of sentencing YDC participants in the YDC itself is becoming more common and allows for recognition of the young person's engagement with the program even though they did not complete it.

10 YDC Program Management

10.1 Program Monitoring

At the time of this review, the database system under construction by the Judicial Commission to operate in the YDC Registry had not been completed. The intention is that the YDC database will include court processes, current charges, access to criminal history data, JART reports, and reports from service and treatment providers, but the final structure is not yet clear. The lack of a comprehensive database system almost one year into the operation of the program has caused problems in terms of information dissemination, monitoring of participants and collation of regular statistics for the YDC program. In this respect it is fortunate that the intake into the program has been lower than anticipated.

At present, statistics on participants and court processes have to be compiled manually by the Registrar and the JART Manager. This situation is problematic for regular monitoring of the YDC and also for the evaluation, particularly since the many Departments and agencies involved tend to have systems of their own which are often incomplete or incompatible with others.

10.2 Program Management

A number of stakeholders commented that for the YDC to operate effectively, it needs more direct and cohesive management at a senior program and operational level. Currently the JART is managed by the DJJ member who also manages the program managers and AOD counsellors, and reports to the Juvenile Justice regional director. JART members reports to their own departments and the JART member from DoCS manages the DoCS-funded services. Similarly, the Court Team has no direct manager and each member reports separately to their department. This places a large burden on the JART Manager in terms of clarifying roles and responsibilities amongst the JART and the various service providers.

In terms of management of the program at a policy level, the YDC Registrar regularly reports to the Monitoring and Evaluation Committee about operational matters. The JART Manager also provides information to this committee on an informal basis. However, although the Attorney General's Department has had responsibility for the overall development of the Program, the lines of management and accountability are

not altogether clear. This is an issue that will need to be addressed, particularly in the context of any extension or enlargement of the Program in the future.

The evolving nature of the program also presents some problems for conducting the evaluation. One difficulty in reviewing the implementation of the YDC is that the model is constantly changing in its operation and procedures. Because there is no 'operations manual' as such, it has been difficult to track and record these changes (and their rationale) effectively.

11 Conclusions and Issues to be Resolved

This report has discussed the implementation of the Youth Drug Court Pilot Program over its first nine months of operation, based mainly on interviews with stakeholders in the various departments and agencies involved, and with a small number of young people participating in the program.

Although the report has tended to focus on barriers to or problems with implementation, it should be noted that there are a number of very positive aspects of the program at this stage.

First, although the participant numbers are relatively small, the program is up and running, and operating largely as planned. This seems to a considerable extent to be due to the dedicated staff recruited to key positions in the program. There is a strong commitment across all the departments and agencies involved to the basic purpose of the program, which is to provide intensive case management and support to a group of particularly disadvantaged, and often damaged, young people. Although the evaluation has only begun to tap into the views and experiences of the participants, the comments from the small number interviewed for the review suggested that even if some saw the program initially as a means of avoiding immediate incarceration, they also appreciated the support and the opportunities that it offered them.

Secondly, although there have been problems in the planning and implementation of the program, it should be emphasised that it is operating effectively as a pilot, in the sense that these problems are being identified, discussed and acted on in so far as resources allow. The structure of the program, while not altogether coherent at times, has also been flexible enough to allow the model to adapt and change over this initial period.

Thirdly, it should also be recognised that while the report has noted problems with the processes of interdepartmental planning, management and service delivery for the program, this kind of cross-portfolio and cross-sectoral work is notoriously difficult and some shortcomings are to be expected. The review found evidence of considerable goodwill and effort on the part of stakeholders to make the interdepartmental structures work effectively.

Having said that, there are a number of issues identified which have hampered effective implementation up to now, some of which still need to be addressed. There are also some questions about the current design of the program. Finally, there are lessons to be learned for the future if the program were to be extended. These are briefly summarised below.

11.1 Implementation Problems

- At the time of the Court commencing (31 July 2000), staffing and office space was not finalised for the JART. It has been difficult to recruit staff to key YDC positions and at the time of writing the position of DJJ community nurse had still not been filled. This has hampered effective program implementation.
- Although stabilisation service were available as required through a partnership arrangement with the PALM West service, the stabilisation unit did not have independent premises when the program began.
- In general, few procedures and systems were in place at the start to guide staff in how the YDC should actually work in operation, and there was little opportunity to conduct training and development prior to or during first six months of operation. This has contributed to a lack of operational clarity in roles and lines of responsibility for the JART and the other service providers. Many of these issues are now being resolved through a consultative process between the JART, service providers and other stakeholders.
- In spite of lower than expected take-up of the program, accommodation for participants at various stages of the program has been and continues to be a serious problem. This is making it difficult to coordinate and provide effective case management and service provision. The proposed 'induction unit' could help to solve these problems, but it is clear that the accommodation issue will need to be reconsidered, and potentially funded, in the event of any extension of the program.
- There is still no effective data management system in place.
- There was a view that the planning process should have drawn more on the lessons of the implementation 'teething problems' of the Adult Drug Court.

11.2 Program Design Questions

- Although the number of participants is increasing, the low take-up so far suggests that the program may be targeted too narrowly. However, there is concern that a relaxation of the criteria could mean that the Court would not capture its key target group of repeat offenders with AOD problems. Such 'net-widening' could also create difficulties for the boundaries between the YDC and other diversionary programs.
- While the YDC model was designed primarily to be based on harm minimisation, in terms of drug use, there are conflicting views about whether this or abstinence is the more appropriate approach for the target group. The harm minimisation approach is not shared by all service providers, particularly residential services, which are frequently not controlled by the YDC, and many short-term accommodation services do not accept young people with AOD problems. The harm minimisation approach also means that urinalysis is not administered in a systematic way to test for program compliance. If the harm minimisation model is maintained, clearer principles and practices are needed regarding sanctions for non-compliance with program requirements.

- There are some suggestions that the program may be too short to achieve an effective and sustained intervention, given the nature of the YDC target group.

11.3 Lessons for the Future

- The difficulties in recruiting staff to key YDC positions in the Western and South Western Sydney area could affect the capacity of the YDC model to be expanded to other areas in NSW.
- There is a shortage of suitable adolescent-specific accommodation for participants and potential participants. Accommodation requirements would need to be resolved before any extension of the program.
- The pilot has also revealed a lack of appropriate programs and resources for young female offenders, and of suitable educational programs for marginalised young people in general.
- The planning process for any similar program in other areas might be assisted by drawing more fully on the experience of operational staff in the human services agencies dealing with disadvantaged young people.

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Appendix 1: Recommendations from the Drug Summit for a Youth Drug Court

Drug Court expansion

- 6.11 The current Drug Court trial be expanded to be available at other venues in NSW and the Children's Court be given comparable diversionary powers to the Drug Court.**

See also 2.5, 7.1, 9.17 and 11.28.

Government response

The Government supports this recommendation.

Youth Drug Court

The Government is committed to extending the Drug Court program to young people and plans to implement a Youth Drug Court in Western Sydney on a two year pilot basis from July 2000.

The Youth Drug Court will be based largely on the adult Drug Court. It will combine intensive judicial supervision and case management of young offenders who are charged with criminal offences that result from drug misuse. These young people will be referred to programs aimed at eliminating or reducing their drug misuse and related criminal behaviour and increasing their ability to function as law abiding members of the community.

For the purposes of the pilot program, it is envisaged that the Youth Drug Court will be conducted within the existing framework of the Children's Court with Drug Court type powers.

The Youth Drug Court would use a team similar to the adult Drug Court but modified for young people. It is envisaged the team would include legal representatives, juvenile justice officers and health representatives.

The pilot would involve the development of eligibility criteria and a reward and sanction philosophy suitable to young people. Unlike the adult Drug Court, it will target alcohol abuse as well as illicit drugs.

The Youth Drug Court will include enhanced and new treatment services tailored especially to the needs of young people, including culturally appropriate services. Research suggests that young people will need more intensive general lifestyle interventions through education, employment, housing, and peer/parent relationship services.

The Government is seeking Commonwealth funding under the National Illicit Drug Strategy in order to provide enhanced services in Western Sydney for young people with drug problems dealt with in the Youth Drug Court and under the Young Offenders Act (see 6.5). These services would include:

- additional rehabilitation beds for young people in Western Sydney
- an extra five full time youth and family workers operating in Western Sydney
- expansion of the Department of Juvenile Justice Intensive Program Units operating at Blacktown and Liverpool (which provide intensive counselling and group therapy, usually as an alternative for a detention order to serious young offenders)
- a trial scheme of integrated services and support to be run by the Department of Community Services which will purchase treatment, counselling, housing, education, and other support services for young offenders.

In developing the program, the Government will work closely with key stakeholders including the Commissioner for Children and Young People and the Senior Children's Court Magistrate.

As with the adult Drug Court, the Youth Drug Court will be subject to full evaluation.